

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Abingdon Division

JAMES WOOD,

Plaintiff,

v.

BRISTOL VIRGINIA UTILITY
AUTHORITY,

Defendant.

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Case No. 1:22CV000018

DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST INTERROGATORIES

Defendant BVU Authority, sued in correctly herein as Bristol Virginia Utility Authority, by counsel, submits its Answers to Plaintiff's First Interrogatories as follows:

1. With respect to the person answering these interrogatories, state his or her name, contact information, job title, name of immediate supervisor, length of employment with Defendants, and the length of time in current position.

**ANSWER: Donald Bowman, President
BVU Authority
15022 Lee Hwy, Bristol, VA 24202
Supervisor: BVU Authority Board Chair
Length of employment: 8 years**

2. Please describe in detail the processes Defendant undertakes to hire personnel subordinate to Defendant's President.

ANSWER: The Defendant objects to the scope of question as discovery in this matter is limited at this time solely to the issue of Eleventh Amendment Immunity, which is analyzed under four factors: (1) whether a judgment against the entity would be paid from the state's treasury; (2) the degree of control the state exercises over the entity; (3) whether the entity is concerned with local or statewide concerns; and (4) how the state's law treats the entity. The defendants' internal personnel processes are beyond the scope of the Court's order.

Subject to and without waiving the foregoing, the Defendant states: Pursuant to the BVU Authority Act, all employees subordinate to the President are hired by the President. See, Va. Code §§ 15.2-7206.6, -7206.7.

3. Please describe in detail any state-level Departments, Boards, and/or other authorities that oversee the activities of Defendant, including, but not limited to processes for the appointment of Defendant's Board members, hiring of any employee of Defendant, and creating administrative rules for Defendant found within the Virginia Administrative Code.

ANSWER: As detailed in the Affidavit of Donald L. Bowman and also contained in the BVU Authority Act, the General Assembly exercises control over BVUA, its Board, its President, its powers, and its activities. The General Assembly has not delegated that control to other departments or boards, instead it exercises control over BVUA as demonstrated by the creation of BVUA, the amendment of the BVU Authority Act, the passage of specific legislation to grant BVUA authority to sale its assets, the direction of an audit by the Auditor of Public Accounts, and the specific rules regarding powers, duties, specific exceptions to Freedom of Information Act, etc. as more specifically set forth in the Act.

4. Please describe in detail any "business interests that could open [Defendant] to the statewide marketplace," as described in Docket No. 18, at 10 (Pageid#: 146).

ANSWER: In the absence of state control, BVUA could offer its existing services statewide and could also provide home security services, child monitoring software for parents, cable television, phone, and internet and enter new areas such as distributed energy resources.

BVU AUTHORITY, wrongfully sued herein as BRISTOL
VIRGINIA UTILITY AUTHORITY

By: /s/ Jennifer D. Royer
Of Counsel

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Counsel for Bristol Virginia Utility Authority

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of November, 2022, a true and correct copy of the foregoing Defendant's Answers to Plaintiff's First Interrogatories was sent via electronic and first-class mail to the following:

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Of Counsel